

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

SPENCER NORMAN, KIEFER )  
NORMAN, COURTNEY NORMAN )  
and HELEN S. NORMAN, )  
 )  
Plaintiffs, )  
 ) Case No.  
vs. ) 2:12-CV-04210-NKL  
 )  
CAMDEN COUNTY, BRIAN D. )  
FIENE, DWIGHT D. FRANKLIN, )  
RICHARD B. DZIADOSZ, )  
LARRY L. RUTHERFORD, and )  
JAMEE L. WATSON, )  
 )  
Defendants. )

DEPOSITION OF WILLIAM E. DURANT  
Taken on Behalf of the Defendants  
July 2, 2013



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1 A. I heard specifically Mr. Fiene  
2 telling him to give him his arm. He kept saying it  
3 over and over, stop resisting, give me your arm.  
4 Q. So you heard Sergeant Fiene telling  
5 Mr. Norman over and over give me your arm and stop  
6 resisting?  
7 A. Yes.  
8 Q. How many times do you think you heard  
9 Sergeant Fiene tell Mr. Norman that?  
10 A. At least three or four. Probably  
11 more. I don't know for sure.  
12 Q. And would that be the same for three  
13 or four more times that Sergeant Fiene told  
14 Mr. Norman give me your arm?  
15 A. Yes. Stop resisting, give me your  
16 arm.  
17 Q. So he made those statements at least  
18 three or four times and maybe more?  
19 A. Yes.  
20 Q. Did you hear the other male deputy,  
21 Deputy Dziadosz, give any commands to Mr. Norman?  
22 A. No, not really. They were working  
23 too hard to get him cuffed.  
24 Q. Did you hear Deputy Watson, the  
25 female deputy, give any commands to Mr. Norman?

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1 A. I believe once I heard her actually  
2 say something like stop fighting.  
3 Q. Did you hear her say anything else?  
4 A. No, not that I know of.  
5 Q. And when you arrived in that backyard  
6 of your mother's house, were all three of these  
7 deputies there when you arrived?  
8 A. They were all three on the man, on  
9 top of the man when I arrived.  
10 Q. And I want you to describe that for  
11 me. You said Mr. Norman was face down on the  
12 ground, correct?  
13 A. Yes.  
14 Q. And was he face down in this tall  
15 grass?  
16 A. Yes.  
17 Q. Did it appear to you that he was all  
18 the way to the ground?  
19 A. He was flat on his face on the  
20 ground.  
21 Q. Could you see whether his face was  
22 actually in the ground or his head was turned left  
23 or right?  
24 A. No. I couldn't honestly see his face  
25 because Officer -- Sue, what was her name again?

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1 Q. Watson.  
2 A. Watson, Officer Watson was pretty  
3 much sitting on him where I couldn't see exactly.  
4 That's another reason you couldn't hear well. I  
5 don't -- I don't know if his head was turned or if  
6 he was completely down like this, but everything  
7 was muffled that he tried to -- noises he made and  
8 all.  
9 Q. All right. When you arrived, you  
10 said that you saw Sergeant Fiene basically on his  
11 butt; is that what you said?  
12 A. Yes. He was straddling him.  
13 Q. And how was Sergeant Fiene straddling  
14 Mr. Norman's butt?  
15 A. The man was laying face down  
16 straight, and I don't know how else you would  
17 straddle someone. He had one knee over his -- he  
18 was like sitting on the small of his back and more  
19 of his butt with his legs spread.  
20 Q. So Sergeant Fiene, was he actually  
21 sitting on Mr. Norman's butt?  
22 A. Yeah. He was -- had the man down.  
23 Q. So it appeared to you that  
24 Sergeant Fiene's buttocks were sitting on top of  
25 Mr. Norman's buttocks?

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1 **MR. CARNIE:** Object to the form.  
2 **BY MR. HENSON:**  
3 Q. Is that correct?  
4 A. Yeah. I mean, they might have even  
5 been a little farther back because I could honestly  
6 see the Taser from where he was holding him in the  
7 small of Mr. Norman's back.  
8 Q. So you believe Sergeant Fiene was  
9 sitting on Mr. Norman's buttocks or shortly behind  
10 his buttocks; is that correct?  
11 A. Right.  
12 Q. Did it appear to you at all that  
13 Sergeant Fiene was sitting on Mr. Norman's back?  
14 A. I don't believe so, no. I think it  
15 was -- because this guy was only wearing boxers.  
16 That's all he had on, and I mean --  
17 Q. So the individual, Mr. Norman, who  
18 was on the ground was wearing boxer shorts?  
19 A. Yes.  
20 Q. And I want to make sure I understand  
21 that. Did it appear to you at all that  
22 Sergeant Fiene was sitting on Mr. Norman's back or  
23 was it on his buttocks area and behind?  
24 A. What I saw, I believe he was mainly  
25 on his butt. I mean, there was a -- he might have

<p style="text-align: right;">46</p> <p>1 gotten closer to him as time -- as this fight kind  2 of went on, but -- because I mean they was  3 wrestling around, you know, and everything like  4 that, but he was pretty much straddling his butt  5 and maybe some very small of his back, you know,  6 right where your back meets your ass pretty much.  7 Q. Did it appear to you that most of  8 Sergeant Fiene was on his -- Mr. Norman's butt,  9 though?  10 MR. CARNIE: Object to the form.  11 BY MR. HENSON:  12 Q. His butt was on -- Sergeant Fiene's  13 buttocks were on Mr. Norman's buttocks?  14 A. I want to say yes, but I mean, as  15 time went on, the more they wrestled and stuff, oh,  16 that's a -- that's a thin line right there because  17 he was right there. I remember distinctively, you  18 know, seeing him on top of him straddled down. The  19 other two were on his shoulders. Yeah, he was like  20 right there on his butt and the small of his back.  21 Q. And when you saw Sergeant Fiene in  22 that area on his buttocks, was Mr. Norman resisting  23 and struggling?  24 A. I don't believe so. Now's where we  25 get to the twist.</p>	<p style="text-align: right;">48</p> <p>1 relationship to Mr. Norman?  2 A. He was on Mr. Norman's left shoulder  3 and arm.  4 Q. And when you say that Deputy Dziadosz  5 was on Mr. Norman's left shoulder and arm, what do  6 you mean on?  7 A. He was straddling -- if I was laying  8 down, he would be straddling with my arm behind my  9 back, his crotch would be right here (indicating)  10 and his, I guess his left leg would have been --  11 oh, no, because he was facing me. His right leg  12 would have been over -- the arm was already pulled  13 back where it needed to be. He had the arm pinned  14 down like that to where it was pointed right at  15 Mr. Fiene and straddling that shoulder. That's  16 where that gentleman was.  17 Q. So Deputy Dziadosz was straddling  18 Mr. Norman's left shoulder?  19 A. Yes.  20 Q. And he was facing you?  21 A. Yes.  22 Q. And did you see Deputy Dziadosz get  23 Mr. Norman's left arm out from underneath him?  24 A. No. He -- his left arm was already  25 handcuffed and pulled back. Now all he had was had</p>
<p style="text-align: right;">47</p> <p>1 Q. Okay. What twist are we talking  2 about?  3 A. Mr. Norman was handcuffed with a  4 handcuff on his left arm behind his back. The male  5 officer was sitting on his shoulder and arm pulled  6 back behind him.  7 Officer Watson, is that right?  8 Officer Watson, she was sitting -- like I said, she  9 was a large lady. She was on his shoulder, his  10 right shoulder, but I swear to God she had her left  11 knee was trapping his arm to where she was almost  12 straddling his arm between her legs. Okay. You  13 see what I'm getting at?  14 She was up on the shoulder, but her  15 leg was pinning his right arm. And Officer Fiene  16 kept yelling at the man to stop resisting and give  17 him his arm, and the guy honestly, in my opinion,  18 could not -- he could not give him his arm because  19 this lady was sitting on it with her knee pinned in  20 this part of it to where it couldn't go back.  21 Q. Let's talk about that a little bit so  22 I understand what you're telling us. Deputy  23 Dziadosz, the other male deputy --  24 A. -- yes.  25 Q. -- now, where was he located in</p>	<p style="text-align: right;">49</p> <p>1 the man pinned by his arm and shoulder.  2 Q. So when you saw this with  3 Deputy Dziadosz, the left -- Mr. Norman's left arm  4 had been pulled back and a handcuff had been  5 applied to it?  6 A. Yes, I believe so.  7 Q. Was Mr. Norman's right arm still  8 under his body?  9 A. No. It was under Ms. Watson's body.  10 Q. Okay. And let's finish talking about  11 Dziadosz before we talk about Deputy Watson. And  12 when you say Dziadosz, Deputy Dziadosz was  13 straddling Mr. Norman's left shoulder, was he  14 actually sitting on his left shoulder or did he  15 have his knee in his left shoulder?  16 A. I believe he had more of his --  17 everybody was on their hands and knees pretty much.  18 I mean, there was nobody standing, squatting or  19 anything like that. He had wrestled the man down,  20 got the arm back behind him and then just kind of  21 pinned him down. So he had like his leg pretty  22 much on it and everything holding the man down.  23 Q. And when you first got there, did you  24 see anybody get Mr. Norman's left arm behind him  25 and handcuff him? Did you actually see the</p>

13 (Pages 46 to 49)

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1 A. Right.

2 Q. And what you did -- and if I don't  
3 describe this correctly, you correct me. You saw  
4 Deputy Dziadosz take both his hands and place them  
5 on Mr. Norman's back and specifically his left  
6 shoulder area and hold him down; is that correct?

7 A. There wasn't a lot of room for him to  
8 put his hands down because the other officer was on  
9 top, Watson. So there honestly wasn't a lot of  
10 room for him. He might have had a hand on her even  
11 because she pretty much covered up the rest of the  
12 back, shoulder area.

13 Q. You believe Deputy Dziadosz held  
14 Mr. Norman down with his hands on his back?

15 A. Yes, I believe so, he did. I'm not  
16 sure with both of them, but I know at least one of  
17 them.

18 Q. All right. So you believe at least  
19 one of Deputy Dziadosz's hands was holding  
20 Mr. Norman down on his back; is that correct?

21 A. He was holding him down by his back,  
22 yes.

23 Q. All right. And then you also  
24 indicated that you believe Deputy Dziadosz was  
25 holding Mr. Norman down on the ground with one of

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1 his knees in his back; is that right?

2 A. Yes. Back and shoulder, or more  
3 shoulder than back, but --

4 Q. And how long did you see  
5 Deputy Dziadosz hold Mr. Norman down with his hand  
6 in his back and his knee in his back? Do you have  
7 an estimate of how long he held him down?

8 A. I don't know if I can give an  
9 estimate as far as an exact time because this -- to  
10 me, it seemed to happen really fast. I mean, this  
11 wasn't a 20-minute, drawn-out procedure. But yeah,  
12 it was --

13 Q. Well, do you have any estimate of --

14 A. I'm going to say a good minute or  
15 two, at least.

16 Q. So you believe that Deputy Dziadosz  
17 had his hands on Mr. Norman's back and his knee on  
18 his back holding him down for a minute or two?

19 A. At least, yeah, I believe.

20 Q. Now, during that time when  
21 Deputy Dziadosz was holding Mr. Norman down as  
22 you've described, did you see Sergeant Fiene or  
23 anyone else use a Taser on Mr. Norman?

24 A. I heard it. I definitely heard it.

25 And I'm wanting to say that when I come up on the

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1 scene, he was being tasered because -- I cannot  
2 remember exactly. I remember the lights on the  
3 Taser. I believe the Taser was yellow and black,  
4 and he would -- he would tell him to quit  
5 resisting, give me your arm. If it didn't happen,  
6 the Taser would go off. And it seemed like -- God,  
7 it seemed like it crackled for -- or made noise for  
8 like ten seconds and then quit. And that was when  
9 Norman would be making these squalling, gurgling  
10 almost noises and -- yeah.

11 I remember when the Highway Patrol  
12 come to talk to me about this, I -- I knew they  
13 were coming after I filled out the little bullshit  
14 report right there. Highway Patrol were supposed  
15 to come out and talk to me. I thought for days,  
16 two days on what word to use on this tasing deal,  
17 and the best word I could come up with was  
18 repeatedly.

19 I don't know how many times he was  
20 tasered. I read it in the newspaper. I don't  
21 believe everything I read, but I read it in the  
22 newspaper, and --

23 Q. And did you know what a Taser was  
24 before that evening?

25 A. Yes.

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1 Q. And what did you understand a Taser  
2 to be?

3 A. Taser is basically a form of a gun  
4 that shoots wires, barbs out and sends electrical  
5 current at the push of a button.

6 Q. And you said that you saw the Taser  
7 go off, and your word that you used was  
8 repeatedly --

9 A. -- yes.

10 Q. -- is that correct?

11 Did you see -- was Sergeant Fiene  
12 using the Taser?

13 A. Yes.

14 Q. Did you see Sergeant Fiene place the  
15 Taser or stick the Taser on Mr. Norman's body?

16 A. I don't know -- I don't even know  
17 which Taser he had as far as the one with the wires  
18 or one that just shoots a current. But I don't  
19 know if it was coincidence or what, but when he was  
20 wrestling the man, he had one hand kept -- got the  
21 left arm back, and he used -- kept using that left  
22 hand to try to grab the right arm because he had  
23 the Taser in his right hand and that was centered  
24 in the small of his back.

25 But I didn't know -- I don't know if

15 (Pages 54 to 57)

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1 say a word.

2 Q. And Deputy Watson, you told us you

3 believe you heard her say what?

4 A. I believe she said stop fighting a

5 time or two. I don't think she honestly understood

6 either at that point in time. I think it was such

7 a heat of the moment thing. I don't believe she

8 honestly understood that she had his arm pinned to

9 where Mr. Fiene couldn't pull it. But Mr. Fiene

10 kept pulling and it couldn't go nowhere because she

11 was kneeling on it. And the moment that -- he

12 finally went just completely limp.

13 Q. So you -- and let me make sure I

14 understand that. You saw Deputy -- or Sergeant

15 Fiene attempt to grab Mr. Norman's right arm and

16 pull it; is that right?

17 A. Yes, several times.

18 Q. Did he actually grab Mr. Norman's

19 right arm?

20 A. Yes, and he pulled it several times.

21 Q. And you believe that what prevented

22 Sergeant Fiene from pulling Mr. Norman's right arm

23 behind his back was the fact that Deputy Watson had

24 her left knee in the triangle on the ground holding

25 it?

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1 A. Yes. I don't think it was not in any

2 way intentional, but I mean --

3 Q. Did you ever see Deputy Watson move

4 her position?

5 A. Yes, at the very end, after

6 subsequent another tasing, this man just finally

7 went completely limp, I mean, no movement, and

8 that's when I think she realized that she didn't

9 need to be on him that hard and she kind of moved,

10 kind of moved, and that's when Fiene was able to

11 like pull the arm up and handcuff it.

12 Q. All right. Now, you said that

13 Mr. Norman went limp. What was he doing before he

14 went limp? How were you able to tell he went limp?

15 A. I could see his feet were still kind

16 of moving, you know. I mean, he wasn't trying to

17 kick or anything, but when he was being tasered,

18 you could see kind of like the, you know, the

19 muscles tense up in his legs. That's the only

20 thing I -- and then all of a sudden, I mean, it was

21 just, pfff, no noises, no more nothing. But that's

22 not when he died. He wasn't dead at that point.

23 Q. Okay. What you saw then, was the

24 only movement you saw of Mr. Norman his legs move,

25 feet move at some point?

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1 A. Yeah, pretty much, because like I

2 said, the other three were sitting on top of him

3 and the only thing that was free was his legs.

4 Q. And what was he doing, Mr. Norman,

5 with his legs? Was he kicking his legs? Was he --

6 A. No. I just said he wasn't kicking

7 his legs. I said that he was tensing his legs,

8 tensing -- his muscles would tense up when he was

9 being tasered.

10 Q. And you saw that movement?

11 A. Right.

12 Q. Did you see any other movement from

13 Mr. Norman during this other than the tense up of

14 the legs?

15 A. No, not really. I couldn't really

16 see anything.

17 Q. Then you said Mr. Norman went limp

18 and had no movement; is that right?

19 A. Right.

20 Q. And did he quit grunting and yelling

21 at that point?

22 A. All the grunting and yelling was done

23 except -- we skipped a whole part almost, but --

24 Q. Okay. We don't want to skip

25 anything.

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1 A. Okay. I mean, this isn't a very, I

2 don't know, important part. I'm not proud of it

3 either. But as I said, this went pretty quick.

4 During the tasing and the trying to get his arm

5 pulled back, I turned to my left and looked and

6 Lillian Rogers was standing from me to you away

7 from me.

8 Q. So she was standing within four to

9 five feet of you?

10 A. Yes.

11 Q. Okay.

12 A. And I told you that they'd stolen

13 stuff from my vehicles. I pretty much retired from

14 Ozark Ready Mix when I got hurt at work. That's

15 where I ended up getting hurt, and I'd worked at

16 Ozark Ready Mix for almost ten years.

17 My best friend, who's pretty much

18 second in command of Ozark Ready Mix, it was the

19 owner and then there's two guys. One does more

20 public relations and the other guy does work on the

21 trucks, keeps the work done on the trucks, the

22 maintenance and the plants and stuff. That guy is

23 my best friend. His name is William Dickle.

24 I'd worked there ten years. I have

25 coats that are embossed with my name or my

20 (Pages 74 to 77)

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1 nickname. They call me Taz. I have coats,  
2 Carhartts that I've gotten for Christmas, hoodies  
3 that I've gotten from Willie. And now a hoodie is  
4 something that is just not given away freely.  
5 I mean, they give T-shirts out constantly, hats.  
6 Christ, I've got sunglasses that say Ozark Ready  
7 Mix. A hoodie is just something that you've got to  
8 know somebody to get one. There, I said it.  
9 When I turned and I saw Lillian  
10 Rogers standing there, she was wearing my wife's  
11 fuckin' hoodie. Okay. She is wearing my wife's  
12 stolen clothes. And I -- I looked at her, and  
13 first words out of my mouth is, what kind of shit  
14 have you started now? And she started -- she  
15 looked at me and was almost mouthing and told me,  
16 this don't have anything to do with me, yadda,  
17 yadda, yadda, yadda. And they had just completed  
18 cuffing this man.  
19 Q. Okay. Well, let me get the sequence  
20 of when you looked back to Ms. Rogers. You've  
21 described for us what you observed the police  
22 officers doing. Had you looked at Ms. Rogers  
23 before you turned and looked at her as you've just  
24 described?  
25 A. No.

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1 Q. Okay. So when you turned and looked  
2 at Ms. Rogers, had Mr. Norman, in your words, gone  
3 limp and had no movement?  
4 A. Yes.  
5 Q. Okay. Well, let's talk about that  
6 first before you turn and talk with Ms. Rogers.  
7 When you say that Mr. Norman went limp and had no  
8 movement, are you talking about you didn't see his  
9 legs move anymore or what are you saying? Describe  
10 that for me.  
11 A. He went limp. Legs quit moving.  
12 They finished cuffing him, which only took a matter  
13 of a second once the lady got off his arm.  
14 Everybody stood up, and that man just laid there.  
15 He never moved.  
16 Q. All right.  
17 A. But he would lay there and gurgle,  
18 and at one point Watson and -- why am I so bad with  
19 names?  
20 Q. Deputy Dziadosz.  
21 A. -- Dziadosz made a joke basically  
22 of -- this dude was gurgling, face down still.  
23 They hadn't moved him or nothing. He was still in  
24 the tall grass, face down. And to me, I heard  
25 gurgling noises, and they go, look, he's already

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1 snoring. He's out cold and snoring now.  
2 And I knew that was wrong. I mean,  
3 I've never seen anybody snore face down for one,  
4 and this wasn't a snore. It was a gurgle noise.  
5 But then that was pretty much the point, well, I  
6 had just gotten handcuffed at that point.  
7 Q. Well, let's talk about that before we  
8 turn to you and Lillian and you being handcuffed.  
9 You said at some point Mr. Norman went limp and  
10 wasn't moving any longer, correct?  
11 A. Yes.  
12 Q. And at some point then did  
13 Deputy Watson the female deputy, move?  
14 A. Yes.  
15 Q. Okay. Did she move off of  
16 Mr. Norman, I mean take her right knee off of his  
17 upper back?  
18 A. I don't know if she -- I don't  
19 believe she took her right knee off his back, but  
20 she tried to pull her left leg up to kind of get to  
21 a squatting, you know, to where her knee's bent  
22 instead of on the ground, and that's when the arm  
23 come out and click and situation was finished.  
24 Q. All right. So what you observed  
25 Deputy Watson do was move her left knee that was on

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1 the ground from the triangle pinning Mr. Norman's  
2 right arm; is that correct?  
3 A. Exactly, yes. Correct.  
4 Q. And when Deputy Watson moved her left  
5 knee that was pinning Mr. Norman's right arm, was  
6 someone able to get that arm behind his back?  
7 A. Yes.  
8 Q. And who was that?  
9 A. Brian Fiene.  
10 Q. All right. So Sergeant Fiene then  
11 pulled the right arm behind Mr. Norman's back?  
12 A. Right.  
13 Q. Was Mr. Norman then handcuffed?  
14 A. Yes.  
15 Q. Did you see who handcuffed  
16 Mr. Norman?  
17 A. Fiene.  
18 Q. Did Sergeant Fiene handcuff  
19 Mr. Norman with one set of handcuffs, two sets of  
20 handcuffs? Do you know?  
21 A. Honestly, I want to say two sets of  
22 handcuffs because I thought he had a set on the  
23 man's left arm already, already had a set on there,  
24 and I think he ended up putting another cuff on  
25 this arm and then pulling them and locking them

21 (Pages 78 to 81)

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<p style="text-align: right;">102</p> <p>1 Did the gurgling sound that you've described</p> <p>2 continue from Mr. Norman?</p> <p>3 A. Right after that started, that's when</p> <p>4 they picked him up and moved him out of my earshot.</p> <p>5 I see him plain as day.</p> <p>6 Q. How long was it that you heard this</p> <p>7 gurgling sound coming from Mr. Norman? Do you have</p> <p>8 an estimate of that time?</p> <p>9 A. Maybe three times in 30 seconds to a</p> <p>10 minute before they moved him.</p> <p>11 Q. So you heard the gurgling sound on</p> <p>12 three different occasions?</p> <p>13 A. Gurgle noise, nothing, gurgle noise,</p> <p>14 nothing. Sounded like every time he was trying to</p> <p>15 take a breath, but I couldn't see him breathing</p> <p>16 because now, A, my flashlight's gone. He broke it</p> <p>17 when he threw it on the ground. His light,</p> <p>18 whatever they had was gone because he had left, and</p> <p>19 now all there is is these two cops looking around</p> <p>20 like this, and the only time you really have light</p> <p>21 on him is when they're looking right down at him</p> <p>22 with their light.</p> <p>23 Q. So you didn't have your flashlight</p> <p>24 any longer?</p> <p>25 A. No. No. No.</p>	<p style="text-align: right;">104</p> <p>1 something about he was asleep and snoring?</p> <p>2 A. I believe that was the lady.</p> <p>3 Q. So Deputy Watson made that statement?</p> <p>4 A. I believe it was Watson that said</p> <p>5 that, but I can't be absolutely positive. I know</p> <p>6 that comment was made, and -- but that's when they</p> <p>7 said, let's move him up here to the short grass.</p> <p>8 Q. So when Deputy Watson said that, did</p> <p>9 you say anything to her?</p> <p>10 A. No. I was done. I'm sitting there.</p> <p>11 I'm -- it was cold, too. I'm serious. It was</p> <p>12 probably 40 degrees outdoors that morning, and --</p> <p>13 Q. I was going to ask you, what was --</p> <p>14 A. I was ready to go -- I mean, I think</p> <p>15 it was probably cooler than 40 because I saw this</p> <p>16 man take his last breath. I saw him exhale and</p> <p>17 never saw another one.</p> <p>18 Q. You believe it was somewhere</p> <p>19 40 degrees or less on the morning of October 4,</p> <p>20 2011?</p> <p>21 A. Yeah. It was cold. I mean, cold for</p> <p>22 me. I mean, I'm in shorts and a T-shirt, you know,</p> <p>23 and I was cold. I was ready to go get in that car.</p> <p>24 I was ready to be transported. I'm like, let's go.</p> <p>25 Q. And Mr. Norman you've described is</p>
<p style="text-align: right;">103</p> <p>1 Q. Was there anything, any light</p> <p>2 illuminating Mr. Norman's body at that time?</p> <p>3 A. Not a lot, no. Just there was some</p> <p>4 light that actually come out of -- by now my mom's</p> <p>5 up and she's got every light in her -- she has a</p> <p>6 modular home. She's got all the lights on in her</p> <p>7 dining room, which flood out two windows and the</p> <p>8 back door, and that was illuminating him there.</p> <p>9 Q. Okay. So could you actually see</p> <p>10 Mr. Norman's body?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So you heard this gurgling</p> <p>13 sound on three different occasions?</p> <p>14 A. In the course of just what basically</p> <p>15 sounded like three breaths.</p> <p>16 Q. Could you see Mr. Norman to tell</p> <p>17 whether he was breathing or not?</p> <p>18 A. Not at that point because he was on</p> <p>19 his face.</p> <p>20 Q. And you've described this gurgling</p> <p>21 sound for us. Did it sound to you like Mr. Norman</p> <p>22 was having problems breathing?</p> <p>23 A. Yes. That's exactly what it sounds</p> <p>24 like.</p> <p>25 Q. And which one of the officers said</p>	<p style="text-align: right;">105</p> <p>1 dressed in some kind of boxer shorts?</p> <p>2 A. Yeah. I believe he just had a pair</p> <p>3 of white boxers on, basically.</p> <p>4 Q. He didn't have on any shirt or</p> <p>5 anything?</p> <p>6 A. No.</p> <p>7 Q. Did he have socks or shoes?</p> <p>8 A. I don't think he had socks and shoes</p> <p>9 on, no, because I remember seeing his legs and</p> <p>10 everything.</p> <p>11 Q. On this morning of October 4th, 2011,</p> <p>12 could you see your breath when you would breathe</p> <p>13 out?</p> <p>14 A. That's exactly, yes, right.</p> <p>15 Q. So it was cold enough that when you</p> <p>16 would breathe it would look like steam?</p> <p>17 A. Right.</p> <p>18 Q. So you heard the deputy say it looks</p> <p>19 like he's asleep and he's snoring?</p> <p>20 A. Right.</p> <p>21 Q. And you didn't believe that?</p> <p>22 A. No. No, not at all.</p> <p>23 Q. And what did you believe was</p> <p>24 happening?</p> <p>25 A. I thought the man was having problems</p>

27 (Pages 102 to 105)

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<p style="text-align: right;">106</p> <p>1 breathing, was going to die because he couldn't  2 fuckin' breathe. That's exactly what I thought.  3 Q. And did you say anything to the  4 deputies?  5 A. I almost -- I probably had a verbal  6 chuckle come out, and I know I shook my head like,  7 shh, you've got to be kidding me, you know, when  8 they said that, but that was about it, because I  9 was pretty much done with them. I had nothing to,  10 you know --  11 Q. You were still sitting there a little  12 bit on the angry side?  13 A. Yeah. I still wasn't very happy.  14 Q. And how did the deputies -- after  15 they made the statement about him being asleep and  16 snoring, did they pick him up? Did they put him on  17 his side? Did they -- what did they do?  18 A. He was laying face down, arms behind  19 his back. They each one reached down here and  20 grabbed an armpit pretty much on each side and  21 walked him, drug him up here to the cut grass.  22 Like I said, all this is cut right here, and the  23 squad cars were pulled in here to where everything  24 after that should have been on a dash cam, you'd  25 think. But they drug him from the porch to right</p>	<p style="text-align: right;">108</p> <p>1 A. No. They just reached down and  2 picked him up by his shoulders or armpits and drug  3 him by me. And like I said, now we're halfway in  4 the middle of the house where I'm at. So it was  5 only another -- this house is only 56 feet long,  6 so --  7 Q. So how far do you believe they drug  8 Mr. Norman?  9 A. Probably 20 feet. At least 20 feet.  10 Q. And they drug him 20 feet into what  11 you'd call the mowed grass, short grass?  12 A. The short grass, yes.  13 Q. And would that have been in your  14 mother's basically side yard, I guess?  15 A. Exactly.  16 Q. And when they picked Mr. Norman up,  17 did you -- could you see his face or was it too  18 dark to see his face?  19 A. It wasn't too dark to see his face,  20 but from where he was hanging down like that, it  21 was kind of shadowed, you know, especially with one  22 officer -- I could see it when they first started  23 bringing him towards me, you know.  24 Like I said, that's the very first  25 time I ever saw him. I knew he had tattoos. I</p>
<p style="text-align: right;">107</p> <p>1 here, laid him down, still face down.  2 That's the first time that I saw his  3 face was when they -- I saw the side of his face  4 because they picked him up and they had to drag  5 him -- like I said, he was right over here. They  6 had to drag him across the front of me, and I could  7 see his face was just, you know --  8 Q. Which two deputies picked him up  9 under his arms?  10 A. Watson and --  11 Q. Dziadosz?  12 A. -- Dziadosz. Why do I keep thinking  13 it starts with a P?  14 Q. And did Sergeant Fiene come back  15 before Mr. Norman was moved?  16 A. No. No. Mr. Fiene was still -- he  17 was at the front door. I don't know where he was.  18 He was gone around the house to speak to my mother.  19 I'm taking it for granted he was on the porch.  20 Q. Okay. So you didn't know where  21 Sergeant Fiene was?  22 A. No.  23 Q. So once the deputies noted that he  24 was asleep and snoring, did you see them check him  25 before they moved him?</p>	<p style="text-align: right;">109</p> <p>1 remember tattoos, I think, but I don't remember  2 exactly where.  3 Q. So as the officers were taking him  4 and dragging him past you, were you able to see  5 Mr. Norman's face?  6 A. I got a glimpse of it, yes.  7 Q. Did it appear to you when the  8 officers took him past you that Mr. Norman was  9 breathing, or could you tell?  10 A. I could still -- the minute he went  11 by, that was one of the -- let's see. Gurgle,  12 gurgle, gurgle. They decided they were going to  13 move him. I think I heard some kind of a -- it was  14 more like a cough or something like that. That was  15 right after they said, look, he's asleep and  16 snoring, and they picked him up and started moving,  17 I heard some kind of a -- I don't know what it was.  18 But I know he was -- I saw him breathing after that  19 point, so I know he was breathing at that point.  20 Q. So when the Deputies Watson and  21 Dziadosz were moving Mr. Norman past you, you  22 thought he coughed or did something like that?  23 A. Yeah. It was a pretty lame cough.  24 It was just like a (indicating) type thing.  25 Q. Okay.</p>

28 (Pages 106 to 109)

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1 asking.

2 A. Okay. I'm just letting you --

3 getting that out there, I mean.

4 Q. Have you ever taken methamphetamines?

5 A. Yeah, but I don't think it was any

6 good, back in -- when I was 18, 19 years old. I

7 think they were Black Beauties they called them

8 back then. I think they were just a capsule.

9 Tried it a couple times. Yeah, it just didn't do

10 anything for me.

11 Q. Have you since that time ever taken

12 any methamphetamines, cocaine, heroin, anything

13 like that?

14 A. No.

15 Q. Were you doing any type of illegal

16 drugs in 2011?

17 A. Only marijuana if I see it once in a

18 while.

19 Q. After this conviction --

20 A. Put it this way. I don't smoke

21 enough to buy any. I'm the smoke with a buddy

22 thing, but I'm not going to go buy pot.

23 Q. After this conviction in 1996 by the

24 jury on second degree burglary, have you been

25 convicted of any felonies or misdemeanors since

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1 then?

2 A. No. I haven't been in trouble for

3 nothing.

4 Q. So from 1996 to the present time

5 today, have you been arrested or convicted of any

6 crimes?

7 A. Only thing I've done is been in

8 handcuffs over this incident right here. That's

9 it.

10 Q. That's what I was asking. So since

11 1996, would it be a correct statement that no law

12 enforcement officer has arrested you for anything?

13 A. Yes.

14 Q. Okay.

15 A. Correct.

16 Q. And, of course, that's other than

17 this incident on the morning of October 4?

18 A. Right.

19 Q. Have you been charged with any crimes

20 from 1996 to the present time?

21 A. No. Like I said, the one in '96, I'm

22 not even good for that one.

23 MR. HENSON: Let's use the bathroom

24 and we'll let him ask you some questions and I

25 think we're done.

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1 (A BREAK WAS TAKEN.)

2 MR. HENSON: Go ahead.

3 CROSS-EXAMINATION BY MR. CARNIE:

4 Q. Mr. Durant, I do have a couple

5 questions for you. So when you came out of your

6 house, you saw three officers on top of Mr. Norman?

7 A. Yes, I did.

8 Q. And they had their entire body weight

9 on top of Mr. Norman?

10 MR. HENSON: Object to the form.

11 Calls for speculation and conjecture on his part

12 and improper opinion. Subject to that, go ahead.

13 THE WITNESS: Individuals were

14 definitely on top of the man. I do not know if it

15 was the full weight of their bodies, but at least

16 most of each, so yes, basically.

17 BY MR. CARNIE:

18 Q. So they were pressing him into the

19 ground?

20 A. Exactly, yes. He was detained.

21 Q. They were putting pressure on his

22 back?

23 MR. HENSON: Object to the form to

24 the extent it calls for speculation and conjecture

25 and improper opinion. Subject to that, go ahead.

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1 THE WITNESS: Back, neck and

2 shoulder, and then as I said, the one guy was

3 sitting more on his buttocks than anything else.

4 BY MR. CARNIE:

5 Q. They were touching his back?

6 A. Yes.

7 Q. They were pushing him on the ground?

8 A. Yes. He was being pinned to the

9 ground.

10 Q. Would you agree they were putting

11 pressure on his back?

12 MR. HENSON: Object to the form to

13 the extent it calls for speculation --

14 THE WITNESS: Yes, I do.

15 MR. HENSON: -- conjecture and

16 improper opinion. Go ahead.

17 THE WITNESS: You're saying go on.

18 He's telling me to wait 'til he's done.

19 MR. HENSON: You have to wait until I

20 finish.

21 BY MR. CARNIE:

22 Q. Here's what's happening. He's making

23 an objection for the judge later. You can just

24 pretend as if you don't hear him. Wait for him to

25 finish, though --

<p style="text-align: right;">210</p> <p>1 A. Okay.</p> <p>2 Q. -- and then answer my question.</p> <p>3 A. I'm good to go, then. You need to</p> <p>4 throw that out there, let me know what's going on.</p> <p>5 Thank you.</p> <p>6 Q. No problem. So you agree they were</p> <p>7 putting pressure on his back?</p> <p>8 MR. HENSON: Object to the form of</p> <p>9 the question to the extent it calls for speculation</p> <p>10 and conjecture and improper opinion on his part.</p> <p>11 THE WITNESS: Yes, sir.</p> <p>12 BY MR. CARNIE:</p> <p>13 Q. They were kneeling on him?</p> <p>14 MR. HENSON: Object to the form to</p> <p>15 the extent it calls for speculation and conjecture</p> <p>16 and improper opinion.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. CARNIE:</p> <p>19 Q. Well, you saw their knees, right?</p> <p>20 A. Yes, I did.</p> <p>21 Q. And you could see where the officers</p> <p>22 put their knees?</p> <p>23 A. Yes.</p> <p>24 Q. And you could see that they put their</p> <p>25 knees on Mr. Norman?</p>	<p style="text-align: right;">212</p> <p>1 THE WITNESS: Petty much all but his</p> <p>2 lower back and his back of his legs and knees area.</p> <p>3 BY MR. CARNIE:</p> <p>4 Q. So most of his body was covered up,</p> <p>5 is that your testimony today?</p> <p>6 A. Yes.</p> <p>7 Q. And aside from his lower back, was</p> <p>8 the rest of his back covered up by officers?</p> <p>9 MR. HENSON: Object to the form to</p> <p>10 the extent lacks foundation. Go ahead.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. CARNIE:</p> <p>13 Q. Maybe I missed something. You</p> <p>14 testified earlier that you couldn't see a lot of</p> <p>15 his body because it was covered up by officers, is</p> <p>16 that correct, or am I misstating something?</p> <p>17 A. Yes, most of his body was covered up.</p> <p>18 Q. And that includes most of his back</p> <p>19 except the lower part of his back?</p> <p>20 A. Yes. I could only see his lower back</p> <p>21 and I could see his hand sticking out that was</p> <p>22 being pinned because the man kept -- Mr. Fiene kept</p> <p>23 grabbing the wrist and trying to pull it and -- but</p> <p>24 yes, I could see just most of his upper torso was</p> <p>25 covered.</p>
<p style="text-align: right;">211</p> <p>1 A. Yes.</p> <p>2 Q. You agree they were kneeling on him?</p> <p>3 A. Yes.</p> <p>4 MR. HENSON: Object to the form to</p> <p>5 the extent it misstates his prior testimony when</p> <p>6 you use officers kneeling on Mr. Norman.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. CARNIE:</p> <p>9 Q. And let me just clarify that. Two of</p> <p>10 the officers were kneeling on him, perhaps not</p> <p>11 Sergeant Fiene?</p> <p>12 A. Yes.</p> <p>13 Q. So Dziadosz and Watson were kneeling</p> <p>14 on Mr. Norman?</p> <p>15 A. Yes.</p> <p>16 Q. Sergeant Fiene was not kneeling, he</p> <p>17 was sitting on him?</p> <p>18 A. He was sitting, straddling him, as</p> <p>19 you would a horse.</p> <p>20 Q. Now, the officers were completely</p> <p>21 covering him up, correct?</p> <p>22 MR. HENSON: Object to the form to</p> <p>23 the extent it calls for speculation and conjecture.</p> <p>24 Misstates his prior testimony. Lacks foundation.</p> <p>25 Go ahead.</p>	<p style="text-align: right;">213</p> <p>1 Q. And you saw him get tasered</p> <p>2 repeatedly?</p> <p>3 A. Yes. I heard it more than seeing it.</p> <p>4 I would see a light come on on the Taser once in a</p> <p>5 while, but I mean, you can't miss that crackle</p> <p>6 noise.</p> <p>7 Q. And what was going through your mind</p> <p>8 while you were watching this?</p> <p>9 A. I couldn't believe it. I was just</p> <p>10 dumfounded that, first of all, it was actually</p> <p>11 happening in front of me, you know, because this</p> <p>12 looked like something that would be on Cops TV</p> <p>13 show, but -- and I had a little bit of disbelief,</p> <p>14 you know, when I realized what was going on.</p> <p>15 I think everybody else, the other</p> <p>16 three were just -- the three officers were just too</p> <p>17 close to the scene to actually know that this chick</p> <p>18 had her knee on him. But I'm standing back far</p> <p>19 away that I could kind of see that picture. I can</p> <p>20 see him pulling on the arm, and like I said, he's</p> <p>21 trying to do two or three other things at the same</p> <p>22 time. I honestly don't believe that Mr. Fiene saw</p> <p>23 that the man's arm was pinned down.</p> <p>24 Q. And you testified earlier, and</p> <p>25 correct me if I'm wrong, that when the officers</p>

54 (Pages 210 to 213)

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1 were on top of him, at some point he went limp?  
 2 A. Yes.  
 3 Q. And then at some point after that,  
 4 you heard a gurgling sound?  
 5 A. Yes.  
 6 Q. And you testified earlier that it was  
 7 obvious to you he was having trouble breathing?  
 8 A. Yes.  
 9 MR. HENSON: Object to the form to  
 10 the extent it calls speculation, conjecture,  
 11 improper opinion. Subject to that -- lacks  
 12 foundation. Go ahead.  
 13 THE WITNESS: That's how it appeared  
 14 to me, yes. That is what I thought.  
 15 BY MR. CARNIE:  
 16 Q. And that is based on the noises you  
 17 heard?  
 18 A. Yes.  
 19 MR. HENSON: Same objection.  
 20 THE WITNESS: Yes.  
 21 BY MR. CARNIE:  
 22 Q. And you heard a noise, a gurgling  
 23 sound; is that what you heard?  
 24 A. Yes, I did.  
 25 Q. And how did you describe that again,

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1 one more time?  
 2 A. Sounded like fluid in the lungs,  
 3 trying to breathe but can't take a full breath and  
 4 makes a gurgle noise.  
 5 Q. So it sounded like he was having  
 6 difficulty breathing?  
 7 MR. HENSON: Object to the form to  
 8 the extent it calls for speculation, conjecture,  
 9 improper opinion. It lacks foundation. Subject to  
 10 that, go ahead.  
 11 THE WITNESS: Yes.  
 12 BY MR. CARNIE:  
 13 Q. You mentioned earlier that the  
 14 officers or at least one of the officers said that  
 15 they thought he was snoring, correct?  
 16 A. Yes.  
 17 Q. And you didn't think he was snoring,  
 18 did you?  
 19 A. Me personally, no, I did not.  
 20 Q. In fact, you were shocked that they  
 21 thought that that was snoring?  
 22 A. Yes, I was very shocked.  
 23 Q. And why were you shocked?  
 24 A. Because I thought it was kind of a  
 25 dumb conclusion to come to. I mean, A, the man was

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1 face down. I've never heard anybody, including me,  
 2 snore face down, and I have a CPAP machine, so I  
 3 know about snoring, and -- no. I just couldn't  
 4 believe that's what they thought it was.  
 5 Q. You mentioned earlier the officers  
 6 were joking, I think the word you said was?  
 7 A. She said it amusingly, look, he's  
 8 already snoring. Can you believe that?  
 9 Q. And how would you describe their  
 10 tone? Was it disrespectful in any way?  
 11 A. I don't believe it was disrespectful  
 12 at the time, but I do believe it was kind of -- I  
 13 mean, I don't know. I probably would have said  
 14 something, too, if I was joking around about it,  
 15 but this was no joke. I mean, to me it seemed like  
 16 it was more serious to me than them, but they do  
 17 that stuff for a living every day, so --  
 18 Q. So it didn't seem to you that they  
 19 were taking it very seriously?  
 20 MR. HENSON: Object to the form to  
 21 extent it calls for speculation, conjecture,  
 22 improper opinion.  
 23 THE WITNESS: At that point it  
 24 probably was in bad taste, I would think, but I  
 25 think they -- I think the woman honestly believed

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1 that. I think she honestly believed that he was  
 2 snoring. That's why I just couldn't --  
 3 BY MR. CARNIE:  
 4 Q. And you thought that conclusion was  
 5 ridiculous?  
 6 A. Pretty much.  
 7 MR. HENSON: Object to the form to  
 8 the extent it calls for speculation, conjecture,  
 9 improper opinion.  
 10 THE WITNESS: Yes, sir. I'm not on  
 11 any side here, but if I'm going to have to tell the  
 12 truth, I want to get this out and over with.  
 13 MR. HENSON: You're doing fine,  
 14 Mr. Durant. I just have to do my job, too.  
 15 THE WITNESS: Oh, I understand.  
 16 MR. CARNIE: He realizes you don't  
 17 like his answers.  
 18 THE WITNESS: Yeah. You guys made me  
 19 come here. I didn't ask.  
 20 MR. CARNIE: We're almost done.  
 21 THE WITNESS: I'm good.  
 22 BY MR. CARNIE:  
 23 Q. We talked a little bit before about  
 24 the second interview that you had gave to the  
 25 Highway Patrol. Do you remember testifying about

<p style="text-align: right;">226</p> <p>1 A. Right.</p> <p>2 Q. And we'll blank out the first part of</p> <p>3 the numbers, but what is your Social Security</p> <p>4 number?</p> <p>5 A. Xxx-xx-7302.</p> <p>6 Q. Xxx-xx-7302?</p> <p>7 A. Yes. I have a phone that I got</p> <p>8 through being disability -- disabled. They give</p> <p>9 you a free phone, 250 minutes a month, you know.</p> <p>10 Q. That's pretty cool. But this phone</p> <p>11 number of your wife, we can always get ahold of</p> <p>12 you?</p> <p>13 A. Yes. You can reach me there</p> <p>14 99 percent of the time.</p> <p>15 MR. HENSON: Mr. Durant, I don't have</p> <p>16 any other questions. Mr. Carnie may.</p> <p>17 MR. CARNIE: I do not.</p> <p>18 MR. HENSON: Let me tell you, the</p> <p>19 Federal Rules of Civil Procedure, this is a federal</p> <p>20 case, you have a right to, after this lady types</p> <p>21 this transcript, to read and make sure she's taken</p> <p>22 down everything you've said here correctly. It's</p> <p>23 not a right to change your testimony but just to</p> <p>24 see if she took down what you said correctly and</p> <p>25 there's no typos, those kinds of things.</p>	<p style="text-align: right;">228</p> <p>1 blind.</p> <p>2 MR. HENSON: We can certainly do</p> <p>3 that.</p> <p>4 (SIGNATURE WAIVED.)</p> <p>5 (WHEREUPON, the deposition concluded</p> <p>6 at 1:14 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">227</p> <p>1 You have an equal right to waive your</p> <p>2 right to read and sign the deposition, just say</p> <p>3 this lady's done her job today. She does not work</p> <p>4 for Mr. Carnie. She does not work for me. She's</p> <p>5 independent. She does this as a job to make a</p> <p>6 living, like the rest of us. So I don't want you</p> <p>7 to think she's associated with either one of us</p> <p>8 because she's not.</p> <p>9 But it's up to you. You can either</p> <p>10 read and sign the deposition before a notary of</p> <p>11 your choice and make corrections if you think they</p> <p>12 need to be or you can waive your right to read and</p> <p>13 sign, and we don't care what you do. It's up to</p> <p>14 you. It's your right to choose.</p> <p>15 THE WITNESS: I waive my right to</p> <p>16 read it, but I want to know if I can have a copy.</p> <p>17 When it is all transcribed on paper, I'd like a</p> <p>18 copy of my own. I don't care whether I've got to</p> <p>19 pay for it. But if we're going to go, if we're</p> <p>20 going to do this, we're going to do it right. I</p> <p>21 want to have every piece of paper. I'd like every</p> <p>22 piece of paper I can get.</p> <p>23 MR. HENSON: We can make sure that</p> <p>24 happens.</p> <p>25 THE WITNESS: I don't want to be</p>	<p style="text-align: right;">229</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF MISSOURI )</p> <p>3 ) ss.</p> <p>4 COUNTY OF COLE )</p> <p>5</p> <p>6 I, KELLENE K. FEDDERSEN, RPR, CSR,</p> <p>7 CCR in the State of Missouri, do hereby certify</p> <p>8 that the witness whose testimony appears in the</p> <p>9 foregoing deposition was duly sworn by me; that the</p> <p>10 testimony of said witness was taken by me to the</p> <p>11 best of my ability and thereafter reduced to</p> <p>12 typewriting under my direction; that I am neither</p> <p>13 counsel for, related to, nor employed by any of the</p> <p>14 parties to the action to which this deposition was</p> <p>15 taken, and further that I am not a relative or</p> <p>16 employee of any attorney or counsel employed by the</p> <p>17 parties thereto, nor financially or otherwise</p> <p>18 interested in the outcome of the action.</p> <p>19</p> <p>20</p> <p>21</p> <p>22 KELLENE K. FEDDERSEN, RPR, CSR, CCR #838</p> <p>23</p> <p>24</p> <p>25</p>

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